

TEXAS COMMISSION ON JAIL STANDARDS

EXECUTIVE DIRECTOR

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OPINION COMMITTEE

The Honorable Greg Abbott
Attorney General of Texas
P.O. Box 12548
Austin, Texas 78711-2548

FILE # MC-44053-04
I.D. # 044053

Re: Whether a county jail may deduct costs incurred for damages to jail property from the commissary account of an inmate that is alleged to have caused said damages

Dear General Abbott:

On behalf of the Texas Commission on Jail Standards, I respectfully request your opinion on whether a county jail may deduct from an inmate's commissary account, those funds necessary to repair or replace county property said to be destroyed by that inmate. We have received inquiries from jails on the feasibility of taking funds from inmate commissary accounts to pay for damages following an institutional due process hearing, but without the filing of criminal charges against the inmate alleged to have caused the damages.

As you know, the Commission regulates county jails pursuant to Chapter 511 of the Texas Government Code. We can find no law expressly providing for the taking of funds from an inmate's commissary account in order to pay for damages said to have been caused by the inmate. The use of commissary funds by the sheriff is specifically addressed at § 351.0415(c) of the Texas Local Government Code. This section does not reference whether these funds may be used to repair or replace county property destroyed by an inmate. Likewise, we can find no law expressly prohibiting the taking of inmate funds for the same purpose. In the past, jails have been advised to file criminal charges against the inmate alleged to have caused the damage, although doing so may not result in the recuperation of funds necessary to repair or replace the property. We have also advised jails to confer with their respective county attorneys for further guidance on the issue.

Counties have not responded similarly to our advice. In the interest of uniformity, clarity, and fairness, we respectfully request your opinion on the matter.

Respectfully submitted,


Terry Julian
Executive Director

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